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SAN JUAN KILN-RECEIVED PER ' FAL-antony this day, and in perfect order. For mile by May 31, 1874. BOLLES & CO.

HAWAIIAN GAZETTE

AN INDEPENDENT JOURNAL, DEVOTED TO HAWAIIAN PROGRESS.

Supreme Court of the Hawaiian Isla ands-April Term, 1876.

JAMES I. DOWSETT et al., vs. KAPILAU, IN EQUITY.

This is a bill in equity praying that a deed of conveyance of John Booth, deceased, to defendant, dated July 29, 1868, of certain premises on Smith's street, Honolulu, be declared null and

The petitioners are James L. Dowsett, an alleged creditor and also mortgages of deceased, the intestate's administrator, Wahinealoha, widow. and heir to one-half intestate's property, and Sa-rah Berger and others, heirs to the other half. There is no proposition more clearly established

The law is likewise plainly settled that a vol-untary conveyance, not fraudulent in fact, is good as to subsequent creditors, though void as to antecedant creditors. 11th Wheaton, 1991 Hinds losses, vs. Longworth, Sexton vs. Wheaton, 8 Wheaton, 229, and a host of other authori-

But if the conveyance is meant to defraud existing creditors, it will not protect the grantee against subsequent creditors. King vs. Wilcox. 11 Paige, 589, 22 Gratt, 339 (Va.) 43 Vermont.

So that admitting that the conveyance under consideration, is a voluntary one and intended to defrand creditors, it would be good against the grantor's heirs, and the question would arise as to whether Dowsett is a creditor. The settlement of which question is not particularly essen-tial to this case, in the conclusion which we have reached. Dowsett had a claim of \$200, which was secured by a mortgage of a date intecedent to the date of the record of the deed in question, and therefore is not affected by the deed; beyond this mortgage it does not appear that Dowsett was a creditor of Booth's at the time of Booth's decease, but he made some payments after Booth's decease which were voluntary payments and amount to \$150, of which \$85 are for mourning for the widow and faneral expenses, they would be binding probably on the mininis-trator, if he had assets, but are hardly such as would entitle Dowsett to relief as a defrauded man by a bill to open up and examine the con-veyances made by the deceased in his lifetime. And at all events the effect could reach no farther than to charge the estate with such sums as might be recovered from the administrator, in

this case a very inconsiderable sum. But the bill asks that the deed in question be adjudged void and delivered up for cancellation. It cannot be adjudged void by reason of fraud, since, as has been said before, even if fraudulent, it is good as against the heirs of the grantor, and the other petitioner is not entitled to this relief. But in order to bind the granter or his heirs, the deed must have been delivered in the lifetime of the grantor; so that the question arises whether the deed was delivered by the grantor to Kapi-

The deed is dated July 29th, 1868, was neknowledged before a notary public and was never recorded until after Booth's death. On the 28th of September of the same year, it was in the possession of the grantor, Booth, for on that day, Booth mortgaged the property to Mr. Dimond, and Mr. Dimond saw the deed in Booth's hands and asked him about it and received an answer that it was a sham. On the 21st of October fol lowing. Kapilan came to the police station-house in Honolulu, claiming some personal property taken from the property in question on an exe-cution against Booth, and Booth came with him, and this deed, now the subject of controversy, was among the papers that Kapilan had. It is very significant that Booth and Kapilau came together. Mahor says that this defendant Kapi-lau, told him that he had paid no money for the laud, and that the deed had been made so that Booth could not mortgage the land, and that the defendant further told him that the deed had been taken from him by Booth and torn up. It hadly in debt and that he lived on the premises until the time of his death in like manner us he

that he got the deed from Booth's trunk after his decease, on the night of his decease. Mrs. Long testifies that the plaintiff told her Against this there is the testimony of Naluahi who testifies that he saw plaintiff give \$500 to Booth in May, but saw no deed, but that after-

ward, in July, he saw a deed in the hands of the defendant. Now the deed was acknowledged be-fore the notary public on the 29th of July, and Barney Fisher took it after it was acknowledged to be stamped. He says that he took it from Booth and teturned to Booth, so that if Nalashi saw the deed in Kapilan's hand, it must have been in the very last days of July, and it is very evident that in September following, it was not in

Weighing the testimony, therefore, as carefully as possible, we must conclude that if the defendant ever had the deed in his possession, it was for a purpose of sheltering the property from Booth's creditors and was returned to Booth when that purpose had been served, and the deed was never delivered to defendant with the intention of passing the estate to him.

The decree of Mr. Justice Judd is therefore CHAS. C. HARRIS, A. FRANCIS JUDD. Justices Supreme Court. S. B. Dole for petitioners, E. Preston for res-

Honolula, May 17, 1876. Supreme Court of the Hawalian Isl-

ands,-April Term 1876.

KEKAUA and PAOA, es. KALEI and MA-LIA KALUAHI.

It is assigned as error that the jury by its ver-dict, did not express any conclusion upon the evi-McLeod to call away a boat and put me ashore,

been required of the jary.

The object of a writ of error is that the errors seized. Even little white boxes bound with assigned may be corrected: now the errors of black, and scaled, which contained lettes, photo-

Should be in the Possession did not sustain the deed of the defendants, and as they found for the plaintiffs it must be inferred that they found as proven all the facts necessary to make out the plaintiffs case and that they did Why was I sent back, and why was I the bearer

> We cannot, on a writ of error, invade the testimopy upon which they based their conclusions does not come up as a part of the record, and in reviewing the authorities on this point we can find no case where a writ of error has been allowed for this purpose. Judgment affirmed.

Justices Supreme Court. S. B. Dole for plaintiffs in error, A. S. Hartwell for defendants in error. Honolala, May 19, 1876.

The population of Berlin is officially stated to be 964,765.

A. FRANCIS JUDD.

The Samoan Difficulty. Colonel Steinberger's Statement.

Col. Steinberger, who was arrested at Samoa by Capt. Stevens, of H. M. S. Barracouta, and was afterwards put ashore at Lavuka, is now re-siding in the city, having arrived from Lavuka have been before the public lately, was walking siding in the city, having arrived from Lavaka

born in the State of Pennsylvania, but about half abouted, and forty or fifty hands were held to the bewildered American to shake. "Well. you must drink to our health," a few chimed in, and army. It seems strange that a man who has been their cosmopolitan Hotel was reached, into which so loyal towards Englishmen, who has been their defender, an advocate of the Washington treaty, defender, an advocate of the Washington treaty. they good-humoredly forced their charge, for and who has stood up in public meetings, and Colonel Steinberger was without doubt again in deciated that English hour and courage were custody. Drinks were called for, and the late supreme, should be the first to suffer under a Premier of Samon was tonsted three times three. British man-of-war in Samoa. I should feel than that a voluntary conveyance binds parties than that a voluntary conveyance binds parties obliged if you would supply me with files of be necessary for me to forward to the departments at home such extracts as I may want. I man." "But is it not through me that some of am here divested of documentary evidence. My papers have all been seized, and I am separated your number killed?" put the colonel. "Not a from them. Some of the papers the natives bit of it," they all shouted, "That little brush themselves had buried for their protection, were we had down at Samoe was no fault of yours. If discovered after I was taken prisoner on board the Barracouta I was taken away from the island darned if we wouldn't fight for you." by the Barracouta. It is well for the captain to men," answered the colonel warmly, " If I had say, " I did it under the orders of the United States Consul." I repudiate that, and assert shouldn't have been treated as I have." " My that it was the business of the captain to know what authority the Consul had no authority, or, if he had, he should have produced it. It is a fact that they would take arything to drink. "Not at

I was sent to Samoa by the U. S. ship Tuscarora, and I was United States Commissioner of
Samoa. I was created Premier of the kingdom,
anybody else; but it was united state, will
anybody else; but it was united to speak to you, nor let
anybody else; but refused to accept pay, and my acceptance of the position was dependent upon the action of the department in the city of Washington, for, the department in the city of Washington, for, being an officer of the U. S. government, I could not accept any position with pay or emolument until such time as I should get permission from the U. S. government. I was sent to Samoa by the U. S. government, with a war shut pleased at the arms of storpasses. I wo do not comrades shook him and suid, "Here Jack, here's Mr. Steinberger." And Sampson, opening his eyes, looked up in amazament, then made an effort to pull himself together, and rished up being an officer of the U. S. government, I could the U. S. government. I was sent to Samoa by the U. S. government, with a war ship placed at my disposal. You have but heard experie statements. There are not five people in the island who objected to my administration. They got the king on board the Barricouta on the night of the King on board the Barricouta on the night of the Colonel Steinberger, is that you?—Give us your hand. I thought we put you ashore at Fiji T. But you see, "said Colonel Steinberger, "I've followed you on here." "Right you are," chimed the 7th, and he there became intoxicated, and in one, "and you'll come and see us aboard the was got to sign the paper deposing me. He con-fessed afterwards that he knew nothing about prisoner of you now, colonel." "Indeed. I signing the paper. On the following morning, I shall, for I want to see Mr. Maxwell," replied was seazed by the captain of the Barracouta, who was accompanied by a force of 140 men. When seized, I had not been taken above 200 yards the colonel expressed a wish to proceed to his from the bouse, before the king was dethroned by the Parliament for what he had done, and he was ly tars. A chair was at once seized, the colonel expatriated, and he and his family put into prison. He has since been banished. The Parliament did this and then said to the captain of the Barracouts, "We will treat for nothing and do nothing until you roturn us our Premier." The captain said, "Well, what is your Premier, we will give you a Premier." The poor fellows who suffered by the engagement—some 30 or 40 sailors of the Research and the Resear of the Barracouta-met me this morning and car ried me bodily, by force, into a drinking saloon to testify their respect, and they cheered again and again, and said I must drink with them. I had to beg to be allowed to walk to the hotel. How is it that English sailors will do these things when not under orders? When English blue jackets do that, there must be something When 40,000 natives are in sackcloth and ashand praying for me, as they do in their churches, is it likely that I am the scoundrel and adventur-er I have been represented to be? I have built their schools, and have obtained \$140,000 worth of goods, dothing, &c., for them from the U. S. About the schooner Peerless, little need be said that matter is before the court. The title to her is not worth a cent. She was seized because I defendant further told him that the dead had been taken from him by Booth and torn up. It is made to appear contexively, that Booth was also also also also be to the live of the transfer of ciety, (as they have entreated me for months and months,) I will discard the Roman Catholics and had done prior to the making of the deed, and Wesleyans, this trouble would not have arisen the deed was not recorded until nearly three It was the London Missionary Society that caused months after Booth's death as has been said bethe trouble. There were three religious bodies

there—the Roman Catholics, the Wesleyans and my administration, it would have been all right. The U. S. government must, I think, take up this matter. Capt. Stevens has traduced the President of the U. S. When he spoke of him, it was as "this man Grant, I have done with him now." You would not esteem it very mee if an Ameri can captain dealt with the name of Her Majesty in the same way. Our consul at the island is not worth talking about, and you know by your late American files that these consulships have been destroyed. I had a stenographer engaged at the

meetings in Samon, and every word that Captain Stevens uttered at those meetings has gone on to The Barracouta arrived at Levoka on the 4th inst., at about 4 A. M. At about 2 o'clock I asked Mr. McLeod, the first lieutenant, to say to the captain that I would like to know what my deatiny is. I had previously sent my protest to the captain. The lieutenant returned in a very lew minutes, and said the captain was on the quarter deck, and wished to see me. I went to the quarter deck and, for the first time he addressed me as Coi. Steinberger. He said: "I beg your pardon for not having informed you before, but I have not been well. I have been instructed by the consul to take you to Auckland with your papers." We parted at about 10 o'clock. Half-an hoar afterwards, when I was about to retire Capt. Stevens came up in front of my berth, and said, "Col. Steinberger, I would like to see you early in the morning with the first lieutenant." I said, "Oh, I have not retired and will meet you immediately." He then left, and shortly afterwards I met him on the quarter deck with Mr. Maxwell, the second officer. The captain had been on shore before this meeting. He said to

This case is wrongly entitled, error being assigned by the defendants in the original action, they become plaintiffs in error, in this case, and the plaintiffs below become defendants in error. The error assigned is that the jury erred in returning a verdict for the plaintiffs on the ground that they found that the deed under which the defendants claimed, was not a good one.

It is assigned as error that the jury by its verdict, did not seem that they found that the deed under which the defendants claimed, was not a good one.

It is assigned as error that the jury by its verdict, did not seem that they found that the deed under which the defendants claimed, was not a good one.

dence supporting or opposing the title by prescription, also set up by the defendants:

Whereas the jury through its foreman stated that they did not believe the witness Kelii kanakaole whose evidence had been adduced to inter-being broken. I did not deal with Capt. Stevens as he had done with me, in calling me-uc It does not appear that any special verdict had been required of the jury.

The object of a writ of error is that the errors

American adventurer. I do not deal in contonue lious epithets. All my private property was seized. Even little white boxes bound with assigned may be corrected: now the errors of law complained of must appear on the record.

The testimony which led the jury to their verdict is no part of the record, nor can remarks which may fall from the jury, not expressed in their verdict, be considered as any part of the on the chambles, and sold at Apis under the guns record.

It is apparent from the record that the jury one feeling, that they found as proven all the facts necessary to make out the plaintiffs' case and that they did not find the prescription of the defendants as proven, in spite of their disbelieving the witness Keliikannkaole.

These were all seized, and you have nothing but my bare word for the existence of such papers. The Uniword for the existence of such papers. The United States government does not deal with a man province of the jury and say that they formed for ten or fifteen years who is an unprincipled wrong conclusions from the testimony, when the adventurer. I sak of the commodore of your squadron to return me to Samon, from where one of your war ships took me by force, and if the 40,000 inhabitants there do not receive me—their white man-with acclamation, then let him believe that I am what Capt. Stevens states. I am

willing to abide by their decision.—Aucklan Herald. It is proposed that the balance of the Ja-panese indemnity food, after payment of all legiti-mate claims thereon, shall be returned, with ac-camulated interest, to the Japanese government, to be applied toward the education of American and Japanese souths in the confirm and Japanese youths in that country.

Colonel Steinberger and the Barra conta's Blue Jackets.

A most remarkable occurrence took place in Queen-street on Saturday morning, to which some little importance may be attached. As per mail steamship City of San Francisco. As only one side of the recent startling events at Samoa has been told, we interviewed Col. Steinberger on general leave from H. M. S. Barracouta. on Saturday last. We found him courteous and obliging. The statement was as follows:—

I am a native of the United States, and was turn. "Howare you Mr. Steinberger!" they all "But why should you treat me thus?" asked the Consul's hostility to me is hostility to a gentleman who would refuse to meet a man like him, and I did so. His enunty is partly aroused because, under my administration, I closed up the drinking shops, in accordance with what I think to be the propriety of life in that or in any other country.

I was sent to Samos by the U. S. ship Tuscaprisoner of you now, colonel." "Indeed, I shall, for I want to see Mr. Maxwell," replied tinued, with the most hearty good feeling, until

ing with all his friendly sympathizers. - Auck-

placed thereon, and thus borne on the shoulders

of the Barracouta's blue jackets, Colonel Stein

berger was conveyed to the Waitemata Hotel,

smidst vociferous cheering, the colonel bowing

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1 in. Boards, T. & G. Boards 1x6,

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1x4 Battens.

14x3 Battens,

1x6 Boards,

2x3 Scantling,

2x4 Scantling,

2x6 Scantling,

3x4 Seantling,

3x6 Scantling, 4x6 Scantling,

3x3 Clear Scantling,

4x4 Clear Scantling,

5x5 Clear Scantling, 6x6 Scantling,

6x8 Seantling,

6x10 Timber,

6x12 Timber,

8x8 Timber,

8x10 Timber,

8x12 Timber,

10x10 Timber,

10x12 Timber,

3x12 Plank,

4 in. Plank,

3 in, Plank

2 in. Plank,

11 in. Plank,

11 in. Plank,

Laths. ALLEN & ROBINSON.

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WHALE BOATS AND BOAT STOCK, .. GROCERIES. Flour & Bread

Lime and Cement,

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Per Hawajian 'Bark Ka Moi' M. RAKEMANN, MASTER, Just Arrived from Bremen.

FANCY PRINTS. PINE PADS, CHOCOLATE AND WHITE

GROUND PRINTS, MUSLINS. WHITE COTTONS,

Horrocks, Long Cloth, A 32 in. A 36 in. B and H 36 in.
Turkey Red, Brown Cotton and Deill,
Blue Cotton Drill, Ticking, Hickory Stripes,
Striped Danims.
Cotton Sheeting, 72, 30, 90, and 100 in,
Mosquito Netting, Water-proof Cloth.

Black and Colored Merinos,

Black Cobourgs and Italian Cloth, Barege, in all colors; Lines, Bedford Cords,

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SILK FOULARDS!

Linen and Cotton Handkerchiefs, white and Table Cloths, Mon's Sucks, Ladies' Stockings, assured, White and Brown Cotton Underchirts, and Merino Finished, Water-proof and Flannel Shirts,

WOOLEN SHAWLS Black Lace Shawls, Silk Umbrellas Pinids, Ponchos, Monkey Jackets,

FLANNEL SACKS AND PANTS, Wall Paper and Border Buckskin and Cloth Sacks and Pants. An Assortment of FINE SUITS, WOOLEN BLANKETS, scarlet, green, blue and white; White Cetton Blankets, Horse Blankets, Light and Heavy Burlaps, Woolpack, Sail Twine,

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A LARGE ASSORTMENT OF SADDLES, Bridles, Bits, and Spars, French and German Calf-Kins, India Rubber Balls, Feather Dusters, Blank Books, Blank Notes, Genuine Gold Leaf. Jewelry, such as Ear Rings, Brooches, &c. Harmonicus, Massa Pipes, London and Meerselinum Pipes,

Cenuine Eau de Cologne Lubin's Extract's Soaps, Tooth I Dressing Combs,

NEEDLES. Pocket Knives, Scissors, Charcoal Irons, Washing Tubs, Gulv. Buckets, 10 and 12 in. GERMAN, ENGLISH AND FRENCH

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LIQUORS:

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Fenon Wire, Nos. 4, 5 and 6. C. C. Tin Plates, Sheet Zine, Keg Rivets, Galvanized Iron Pipe, 2 in. 2 in. 1 in. 12 in. Babbitts Metal, Hoop Iron. 2, 2, 2, 12. Wrapping Paper, Horse Rope, white; Corks, Moulding, Looking Glasses & Chromos, Tumblers, Water Monkeys, Gambier and Cutch, Demijohns, §, 1, 3 and 5 galls., Market Baskets,

KEROSENE OIL. Birch Brooms, Cement, Fire Clay. Fire Bricks, Salf Heat Irous, Mason's Blacking. Orders from the other Islands Carefully

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FROM HUMBOLDT! 1 In. SURFACED REDWOOD BOARDS,

1 1-2 In. Surfaced Redwood Boards, 1 1-4 In. Surfaced Redwood Boards, 1 1-2 In. Surfaced Redwood Planks,

1x6 In. Tongued & Grooved R. W. Flooring

1 1-4x6 In. T. & G. R. W. Flooring, 1-2 In. Redwood Siding,

1 In. Rough Redwood Boards, 1-4 In. Rough Redwood Boards,

2 In. Rough Redwood Plank. 4x4 Rough Redwood Scantling. 4x6 Rough Redwood Scantling. 6x6 Rough Redwood Scantling,

8x8 Rough Redwood Scantling. 1-2x3 Redwood Battens, 'FAYES'" SUP. REDWOOD SHINGLES!

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